

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Joseph E. Dibling
32098 Brandeberry
Fostoria, OH 44830

Plaintiff,

vs.

Palletone of Indiana, Inc.
c/o CT Corporation System, Registered Agent
334 North Senate Avenue
Indianapolis, IN 46204

and

Stephen M. Sutter
52268 Silver Street
Three Rivers, MI 49093

Defendants.

) Case No.:

) Assigned To:

) **COMPLAINT WITH JURY DEMAND**

Now comes the Plaintiff, by and through counsel, Dzienny Law Office, Ltd., and for his
Complaint against the Defendants states as follows:

1. Plaintiff is, and was at all times relevant to the suit herein, a resident of Fostoria, Seneca County, Ohio.

2. The Defendant, Palletone of Indiana, Inc. (hereinafter referred to as "Palletone") is an Indiana corporation and was an Indiana corporation on the date of this tractor-trailer/automobile crash with its principal place of business located in Shipshewana, Indiana.

3. Defendant, Stephen M. Sutter (hereinafter "Sutter") is, and was at all times relevant to the suit herein, a resident of Three Rivers, St. Joseph County, Michigan.

4. The tractor-trailer/automobile crash wherein Joseph E. Dibling sustained severe and permanent personal injuries occurred on December 18, 2018 within the Township of Montgomery, Wood County, Ohio.

5. This Court has original jurisdiction under §28 U.S.C. 1332. Complete diversity of citizenship exists between the parties and the amount in controversy exceeds One Hundred Thousand Dollars (\$100,000.00), exclusive of interest and costs.

6. Plaintiff is a citizen of Ohio and Defendant Palletone of Indiana, Inc. is an Indiana Corporation licensed to do business in Indiana with its principal place of business in Indiana. Furthermore, the driver of Defendant Palletone's tractor-trailer, Stephen M. Sutter, was at all times relevant to the suit herein a resident of Three Rivers, Michigan, and also has complete diversity of citizenship.

7. For the foregoing reasons, this Court has original jurisdiction in this matter based on diversity of citizenship pursuant to §28 U.S.C. Section 1332 and venue is proper in this Court because this is the District and Division where this crash occurred and action arose.

8. On December 18, 2018, Plaintiff Joseph E. Dibling was struck by Defendant Sutter when he attempted to pass Plaintiff's vehicle. Defendant Sutter was negligently operating the tractor-trailer in the scope, course and in an agency capacity for the Defendant Palletone, when he struck Plaintiff's vehicle, causing this substantial crash and the injuries and damages to occur with Joseph E. Dibling.

9. Defendant Sutter's actions or omissions to act as set forth hereinabove constitute negligence.

10. As a direct and proximate result of the negligence and wrongful conduct of the Defendant Sutter, Joseph E. Dibling sustained severe and permanent personal injuries that are believed to be ongoing and permanent in nature.

11. As a direct and proximate result of Defendant Sutter's negligence and wrongful conduct, Joseph E. Dibling sustained severe and permanent personal injuries and has incurred substantial medical expenses to date believed to exceed Eleven Thousand Dollars (\$11,000.00) to date, as well as loss of earnings and it is expected that he will continue to incur ongoing medical expenses for the necessary medical care and treatment he requires for the injuries he sustained in this crash as well as his probable wage loss into the future.

12. As a further direct and proximate result of the negligence and wrongful conduct of Defendant Sutter, Joseph E. Dibling has been and will remain unable to participate in multiple usual and customary activities in which he was able to participate prior to this crash. It is expected that Joseph E. Dibling will continue to suffer from the inability to participate in these activities permanently into the future as a result of the injuries he sustained in this crash. As a further direct and proximate result of the above-mentioned acts of negligence of the Defendant

Sutter, Joseph E. Dibling's ability to live free from pain, discomfort, disability and restriction has been permanently impaired.

SECOND CAUSE OF ACTION

13. Plaintiff incorporates paragraphs one (1) through twelve (12) of his Complaint against the Defendants as if fully set forth hereinafter.

14. As of December 18, 2018, the Defendant Palletone was the employer of Defendant Sutter, who was acting under and within the scope and course of his employment/agency with said Defendant Palletone when he negligently caused this crash with Joseph E. Dibling and his resulting damages.

15. As a direct and proximate result of Defendant Sutter's negligence, Defendant Palletone is liable to Joseph E. Dibling under the doctrine of *Respondeat Superior* as Defendant Sutter was acting within the scope, course, authority, employment, and/or agency of Defendant Palletone when he caused this crash and Joseph E. Dibling's resulting permanent injuries, wage loss and damages.

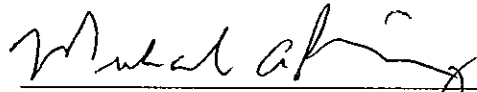
WHEREFORE, Plaintiff prays for judgment against the Defendants jointly and severally as follows:

- (a) As and for compensatory damages in an amount in excess of One Hundred Thousand Dollars (\$100,000.00), which will be proven at the trial of this matter and;

- (b) The costs incurred by the Plaintiff in bringing these proceedings, including interest thereon as provided by law and any further legal or equitable relief that this Honorable Court deems just, proper and owing to the Plaintiff.

Respectfully submitted,

DZIENNY LAW OFFICE, LTD.

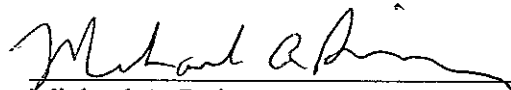


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JURY DEMAND

Plaintiff herein demands a trial by jury on all issues so triable.

DZIENNY LAW OFFICE, LTD.



Michael A. Dzienny
Attorney for Plaintiff